

# **EXHIBIT 5**

1 UNITED STATES DISTRICT COURT  
2 NORTHERN DISTRICT OF CALIFORNIA

3  
4 CISCO SYSTEMS, INC.,  
5 Plaintiff,  
6 vs. Civil Action No.  
7 ARISTA NETWORKS, INC., 5:14-cv-5344-BLF  
8 Defendant.

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10  
11 HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY  
12 SUBJECT TO PROTECTIVE ORDER

13  
14 VIDEOTAPED DEPOSITION OF LINCOLN DALE,  
15 VOLUME I

16  
17 January 21, 2016

18 9:37 a.m. - 6:55 p.m.

19  
20 555 Twin Dolphin Drive, 5th Floor  
21 Redwood Shores, California

22  
23 REPORTED BY:

24 James Beasley

25 CSR No. 12807, CCR No. 835, RPR

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

CISCO SYSTEMS, INC.,

Plaintiff,

vs.

Civil Action No.

ARISTA NETWORKS, INC.,

5:14-cv-5344-BLF

Defendant.

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HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

SUBJECT TO PROTECTIVE ORDER

Videotaped Deposition of Lincoln Dale,  
Volume I, taken on behalf of the Plaintiff, at  
Quinn, Emanuel, Urquhart, & Sullivan, 555 Twin  
Dolphin Drive, 5th Floor, Redwood Shores,  
California, beginning at 9:37 a.m. and ending at  
6:55 p.m., on Thursday, 21st day of January, 2016,  
before James Beasley, Registered Professional  
Reporter, California Certified Shorthand Reporter,  
CSR No. 12807.

1 Nest, on behalf of Defendant Arista and the witness.

2 MR. CHRISTOFFERSON: Sean Christofferson  
3 on behalf of Arista.

4 MS. McCLOSKEY: Elizabeth McCloskey on  
5 behalf of Defendant Arista.

6 THE VIDEOGRAPHER: The certified court  
7 reporter is James Beasley. Would you please swear  
8 in the witness.

9 \* \* \*

10 Lincoln Dale,  
11 being first duly sworn and/or affirmed by the  
12 Certified Shorthand Reporter to tell the truth, the  
13 whole truth and nothing but the truth, testified as  
14 follows:

15 \* \* \*

16 E X A M I N A T I O N

17 \* \* \*

18 BY MR. PAK:

19 Q. Good morning, Mr. Dale. Would you please  
20 state your name for the record.

21 A. Lincoln Dale.

22 Q. Can you spell it.

23 A. L-i-n-c-o-l-n, D-a-l-e.

24 Q. And who's your current employer?

25 A. I work for Arista Networks.

1 I don't honestly know.

2 Q. The initial -- let me break that into  
3 different parts.

4 The initial decision by an engineer to  
5 propose a CLI expression, that's an individual  
6 subjective choice, correct?

7 A. Sure. Someone needs to come up with a  
8 command to start with.

9 Q. And so you as an engineer at Cisco, if you  
10 were asked to express a CLI command expression for a  
11 particular functionality that was being added, you  
12 would come up with your preference and make a  
13 subjective choice based on what you thought was the  
14 best fit; is that true?

15 A. No, I don't -- there are -- I can think of  
16 cases where that wouldn't be correct. I think  
17 there's certainly been cases where we've asked  
18 customers what they would like as commands or what  
19 they feel makes the most sense. So it's not always  
20 up to an engineer to come up with that.

21 Q. But it can be up to an engineer, you can  
22 have situations where an engineer can come up with a  
23 particular command expression for a functionality in  
24 CLI that is his preference, correct?

25 A. I guess so, sure.

1           Q.    And when you were having these different  
2 opinions, those were your personal opinions and  
3 preferences for how a CLI command expression should  
4 be expressed, correct?

5           A.    Yeah, sure, I guess so.

6           Q.    Okay.  And isn't it true that for any of  
7 these functional aspects of a switch or a router  
8 that you could have many different command  
9 expressions for the same functionality?

10          A.    It's possible, but in all honesty, a lot  
11 of these things just make logical sense.  You  
12 wouldn't put commands not related to interfaces  
13 under interfaces.  You wouldn't put things not  
14 related to IP under IP.  Likewise, something related  
15 to IP would make logical sense to put under IP.

16          Q.    Granted.  But even with those logical  
17 guidelines, how you choose certain words, what word,  
18 those words are chosen, whether you use  
19 abbreviations or not, those are individual choices  
20 that could be made by a Cisco engineer?

21          A.    They could be, but, again, things like  
22 abbreviations, you'd be typically using industry  
23 standards or well-known acronyms.  You would be  
24 referencing things that if you're implementing a  
25 standard or something as part of a standard you'd be

1 incorporating those terms in that way.

2 I don't -- I would disagree with the  
3 assertion it was solely the engineer writing a piece  
4 of functionality that came up with that command.  
5 They ultimately might be the one that -- that  
6 implements it or sets it. But I would think that  
7 it's -- it's following a logical approach in  
8 choosing that command in the first place.

9 Q. But, Mr. Dale, you would agree with me  
10 that, just having said all of that, that two Cisco  
11 engineers could sit down and propose two different  
12 command expressions for any of these functions;  
13 isn't that true?

14 A. That's entirely possible.

15 Q. Okay. For example, although Cisco chose  
16 the word "show" to display information, another  
17 networking company could pick a different word,  
18 "display," for the same functionality, correct?

19 A. It's possible.

20 Q. And they could pick the word "visualize"  
21 rather than "show," correct?

22 A. It's possible. I mean, I -- I know of a  
23 lot of companies that use the word "show" in your  
24 examples.

25 Q. You also know that the word "get," g-e-t,

1 has been used by companies to show information on  
2 various networking equipment, correct?

3 A. I think "get" has been used from the point  
4 of view of a non-command-line interface,  
5 specifically SNMP. So -- which is different from a  
6 command-line interface.

7 Q. But there's no reason technically why you  
8 couldn't use the word "get" as a part of a  
9 command-line interface for implementing Ethernet  
10 switching?

11 A. I -- I -- I guess you could use "get," but  
12 it doesn't make logical sense when "show" is a  
13 better word. It's more expressive of what you're  
14 actually doing.

15 Q. Is there any technical reason why you  
16 couldn't choose the word "display" as a part of a  
17 CLI for implementing Ethernet switching?

18 A. Yeah, I think there's -- sorry, can you  
19 repeat the question?

20 Q. Yeah. Is there a technical reason why you  
21 couldn't choose the word "display" as part of a CLI  
22 for implementing Ethernet switching?

23 A. I think you could choose any word for any  
24 command. I think there is something that makes the  
25 most logical sense. In my experience of working



1 with customers, they like and value consistency.  
2 "Show" is a very unambiguous way of what a "show"  
3 command does.

4 Q. We're going to get to customers later.  
5 All I'm asking you right now as an engineer, is  
6 there a technical reason why you couldn't design a  
7 CLI interface for Ethernet switching that used the  
8 word "display" instead of "show"?

9 A. There's -- sure, there's no reason why  
10 not.

11 Q. Okay. And you're generally familiar with  
12 CLI parser technology, correct?

13 A. I mean, I -- I know, for example, CLI  
14 commands. I don't have any specific expertise in  
15 how parsers work themselves. I don't think I've  
16 ever written a parser myself, so I'm certainly  
17 not -- not an expert on them. But certainly I've  
18 seen a lot of CLI commands, so...

19 THE REPORTER: "I've seen a lot of..."

20 THE WITNESS: CLI commands.

21 BY MR. PAK:

22 Q. What --

23 A. But parsers, no.

24 Q. Do you know what a CLA parser -- CLI  
25 parser is?

1 Q. That's not my question, sir.

2 My question is: Just because you think  
3 something is logical or illogical doesn't mean that  
4 every other engineer or customer would agree with  
5 your opinion, correct?

6 A. Sure. I -- I can't speak for anyone other  
7 than myself.

8 Q. So somebody else, a customer could  
9 disagree with you and say: No, I think it's logical  
10 to me, I like that interface, you should keep it?

11 A. It's possible.

12 Q. And it's possible that other engineers at  
13 Arista could say: No, I disagree, Dale, I don't  
14 think you're right, that's not the right choice, we  
15 like the existing interface?

16 A. It -- it's possible, sure.

17 Q. You've had discussions like that in coming  
18 up with CLI expression at Arista, haven't you?

19 A. It's certainly possible that I -- yeah,  
20 sure, we've had -- talked to customers, had those  
21 kinds of conversation.

22 Q. You had similar conversations when you  
23 were at Cisco to the extent you were involved in CLI  
24 expressions, correct?

25 A. I probably did.

1 Q. And those were your words spoken at the  
2 2013 QUESTnet conference, correct?

3 A. Sure.

4 Q. So as transcribed here, one of the  
5 statements that you made was: When we say that our  
6 switches run on industry standard CLI, that's my  
7 joke for saying it's the same as IOS.

8 You made that statement, correct?

9 A. I did make that statement. That said, I  
10 think you just cut off, I was in mid sentence by  
11 saying something about where the differences lie.  
12 And I think I started saying: "That said," and then  
13 you paused it just now, so --

14 Q. We can go into more detail. I'm just  
15 asking you about this particular statement.

16 Mr. Dale, one of the things that you told  
17 the audience at QUESTnet 2013 is that: When we say  
18 that our Arista switches run on industry standard  
19 CLI, that's your joke for saying it's the same as  
20 Cisco's IOS. You made that statement, correct?

21 MR. SILBERT: Objection. Asked and  
22 answered.

23 BY MR. PAK:

24 Q. Yes?

25 A. I certainly said that, and the following

1 sentence that we haven't yet heard I think clarifies  
2 that statement.

3 Q. And the very next sentence you said was:

4 "You guys could take the config off a  
5 Catalyst or Nexus and apply it exactly the  
6 same way."

7 You stated that, correct?

8 A. So I stated that. And as before, I think  
9 the follow on sentence is -- is also relevant to put  
10 it into context.

11 Q. "Catalyst or Nexus" are referring to Cisco  
12 products, correct?

13 A. Yeah, Catalyst and Nexus are referring to  
14 Cisco products.

15 Q. And what is a Catalyst product from Cisco?  
16 What type of products?

17 A. Catalyst is the -- is a family of switches  
18 from Cisco.

19 Q. And what type of switching does a Catalyst  
20 product line perform?

21 A. A Catalyst switch is -- is an Ethernet  
22 switch.

23 Q. And what type of switching equipment is  
24 the Nexus line of products from Cisco?

25 A. Nexus switches are also Ethernet switches.

1 Q. And remind us again, what types of  
2 switches does Arista make?

3 A. Arista makes Ethernet switches.

4 Q. Okay. I want to show you more statements  
5 on this topic from other documents.

6 Who is Mr. Paul Surbhi, S-u-r-b-h-i? Do  
7 you know who he is?

8 A. Sorry, can you repeat the name?

9 Q. I may have gotten it wrong, the other way,  
10 I think it's Surbhi Paul, S-u-b -- S-u-r-b-h-i,  
11 P-a-u-l?

12 A. Yeah, Surbhi -- Surbhi worked at Arista.  
13 I don't recall what her title was, it could have  
14 been product manager.

15 Q. Do you know whether she's still employed  
16 by Arista?

17 A. I know that she is not employed by Arista.

18 Q. Do you know where she is currently in  
19 terms of her employment?

20 A. No, I don't know where Surbhi works.

21 Q. Do you know whether she --

22 A. I don't know if she works at all.

23 Q. Do you know whether she terminate -- she  
24 was terminated or she left voluntarily from Arista?

25 A. I don't know.

1 Q. Okay. So what I'm getting at, sir, is  
2 this: Based on your understanding and experience  
3 with industry standards that are adopted by industry  
4 standard setting organizations, a vendor like Cisco  
5 could comply with an industry standard adopted by an  
6 industry standard organization using a variety of  
7 different types of user interfaces; isn't that true?

8 A. I'm not sure I understand your question.  
9 Can you be more specific?

10 Q. Yeah, let me be more specific.  
11 Based on your understanding and experience  
12 with industry standards that are adopted by industry  
13 standard organizations, a vendor like Cisco could  
14 comply with an industry standard using, for example,  
15 a command-line interface for the industry standard  
16 compliant functionality, correct?

17 A. I still don't understand your question.  
18 It's -- it doesn't make sense to me what you're  
19 asking.

20 Q. Okay. Do these industry standards that  
21 we've been discussing, the industry standards from  
22 IEEE, IETF, on various protocols that we talked  
23 about, do any of these industry standards require a  
24 particular type of user interface to comply with the  
25 industry standard?

1           A.    I don't know, to be honest.  I'm not aware  
2 of there being -- if -- if we talked about the --  
3 the IEEE, I don't know whether there is an IEEE  
4 standard or document or guidelines that covers user  
5 interface.  I don't know whether there is in IETF  
6 either.  There may be.

7           Q.    You're not aware of it?

8           A.    I'm not aware of it if there is one.

9           Q.    Let me be more specific.

10                  You know of Ethernet switches that are at  
11 least advertised as being compliant with the IEEE  
12 standard for Ethernet that use a command-line  
13 interface for the switch, correct?

14           A.    Yes.

15           Q.    And you're also familiar with Ethernet  
16 switches that use only a graphical user interface  
17 and yet are advertised as being compliant with the  
18 IEEE standard for Ethernet, correct?

19           A.    Yeah, there probably are switches that  
20 only have a graphical interface.

21           Q.    Okay.  And so what I'm getting at is, with  
22 respect to at least these protocols that we've been  
23 discussing, IEEE, SNMP, Fibre Channel, IP/TCP, SNMP,  
24 you can be compliant with those industry standards  
25 without adopting a particular type of user

1 interface; isn't that true?

2 A. Generally speaking, when you say that  
3 you're complaint to a standard, it's specific to  
4 something. So, for example, if we pick TCP as an  
5 example, there would be an RFC that covers behavior  
6 for TCP and what's mandatory, what's optional,  
7 whatever.

8 I think -- so in relation to your  
9 question, I recall that there -- I think there  
10 actually is an IETF RFC that covers interactive  
11 interaction with a device. Certainly if we -- if we  
12 took Cisco and Arista, as an example, you could go  
13 "control W" as a command that will erase the  
14 previous word. They both do that.

15 But, in fact, Linux does that, Unix does  
16 that, I think VAX/VMS does that. I don't know  
17 whether there's a standard for that, but I think  
18 it's certainly a convention that many people could  
19 call an industry standard, whether it's written down  
20 as part of a standards body or not.

21 I think it might be, but I -- I can't give  
22 you the specifics of whether it is or not.

23 Q. Yeah, my question's different.

24 My question is: Let's say, for example,  
25 the Ethernet standard adopted by an industry



1 standard organization, a vendor could comply with  
2 that particular industry standard and choose  
3 whatever user interface it wants to carry out the  
4 functionality as long as it satisfies the functional  
5 requirements that are mandatory for that standard,  
6 correct?

7 A. Sure, I guess. I won't dispute that you  
8 could say something was compliant with Ethernet by  
9 meeting standards, mandatory requirements as part of  
10 whatever standards documents cover Ethernet.

11 Q. Right. And to your knowledge, you are not  
12 aware of any Ethernet industry standard requirement  
13 that you must use a command-line interface in order  
14 to be compliant with an Ethernet industry standard,  
15 true?

16 A. I'm not sure I would agree with that  
17 question because you can't configure a device  
18 without having some kind of interface to it.

19 Q. Listen very carefully to my question. I'm  
20 talking about command-line interface.

21 Sitting here today, you're not aware of a  
22 requirement, a mandatory requirement, in the IEEE  
23 standards document for Ethernet that says: A vendor  
24 must use a command-line interface to configure a  
25 device in order to be compliant with that

1 Internet -- or Ethernet standard, correct?

2 A. I'm not aware of whether the standard  
3 would say that or not. But what I would say is,  
4 there will be parts of, for example, the Internet  
5 standard, and it might be setting the speed of the  
6 device or settings some port parameters, that you  
7 couldn't do unless you had some means of first  
8 configuring it.

9 Q. Fair enough.

10 A. It's a chicken-and-egg, you can't  
11 configure it until you configure it, so the call  
12 wouldn't come up until you configure it, and so...

13 Q. You need -- you need -- I agree with you,  
14 Mr. Dale, that you need some configuration.

15 But what I'm getting at is, sitting here  
16 today, based on your understanding of these industry  
17 standards that are adopted by industry standard  
18 organizations, are you aware of a mandatory  
19 requirement that devices must use a particular type  
20 of command-line interface?

21 A. I don't believe it's part of any standard.  
22 It could be.

23 Q. Sitting here today -- sitting here today,  
24 are you aware of any such requirement in those  
25 particular standards?

1           A.    I'm -- I'm not, but that doesn't mean it  
2 doesn't exist.  You know, standards documents and  
3 standards body work is long and tedious.  I've  
4 certainly not spent large amounts of time looking  
5 through those things.

6           Q.    Okay.  Now, let's make something  
7 absolutely clear on the record.  The Cisco CLI is  
8 not an industry standard that's been adopted by any  
9 industry organization, correct?

10          A.    Those are your words.  I would disagree  
11 with that statement.

12          Q.    Industry standard organization.  Can you  
13 point to a single document that has been ratified by  
14 an industry standard organization which requires  
15 Cisco CLI?

16          A.    No, I can't point at any document, but it  
17 doesn't mean it doesn't exist.

18          Q.    Has the IETF ever issued or ratified an  
19 industry standard document that says:  Comply with  
20 the following set of CLI commands that are used by  
21 Cisco?

22               MR. SILBERT:  Objection.  Lacks  
23 foundation.

24               THE WITNESS:  I don't know whether they  
25 have or haven't.  I think there is a document within

1 the IETF that covers best practice that includes  
2 industry standard command lines for showing certain  
3 aspects. I don't know the wording around those  
4 commands, but -- you'd have to be more specific.

5 BY MR. PAK:

6 Q. Has the IETF ever issued an industry  
7 standard document that requires, requires through a  
8 mandatory requirement, that a vendor must use the  
9 CLI commands that are used by Cisco, to your  
10 knowledge?

11 MR. SILBERT: Same objection. Lacks  
12 foundation.

13 THE WITNESS: So I don't think at any  
14 point I've ever been part of the IETF, so I'm  
15 certainly not across everything that they have or  
16 have not published. So it's difficult to answer the  
17 question with a definitive "yes" or a "no."

18 BY MR. PAK:

19 Q. I'm just asking your knowledge, sitting  
20 here today.

21 A. I don't think I've seen a document -- I  
22 don't think I've seen a standard from the IETF that,  
23 for example, lays out every command. But -- but,  
24 you know, there may be documents out there that make  
25 recommendations.

1           Q.    Have you seen any industry standard  
2 document ratified by the IEEE that as a mandatory  
3 requirement requires vendors to use CLI commands  
4 from Cisco?

5           MR. SILBERT:   Same objection.   Lacks  
6 foundation.

7           THE WITNESS:   I'm -- I'm not a member of  
8 the IEEE.   I think most of their standards are  
9 available for members.   So as I'm not a member, it's  
10 a little bit hard for me to comment on their  
11 standard documents when, generally speaking, I don't  
12 have access to.   I certainly don't have access to  
13 the library of them.

14 BY MR. PAK:

15           Q.    You've never seen an IEEE standards  
16 document?

17           A.    I think I've seen parts of some documents.  
18 But I think IEEE, as a standards body, has been  
19 around for dozens of years.   I -- I don't know how  
20 many standards they have.   At best, I've maybe  
21 looked at a small handful or seen a small handful, a  
22 small portion of a small handful of those documents.

23           Q.    All I'm asking for is your knowledge here  
24 today.

25                   Mr. Dale, based on your experience with

1 working with IEEE standards, to whatever extent that  
2 might be, are you aware of a single IEEE document  
3 that's been adopted by the IEEE standard  
4 organization which mandatorily requires vendors to  
5 use CLI commands from Cisco, sitting here today?

6 A. So I'd reiterate what I've already said  
7 here, and that is, I'm not a member of the standards  
8 body in question. I don't have access to their  
9 library, generally speaking. I've only seen --  
10 probably worked with a small handful of their  
11 documents or their standards. You're asking me to  
12 speculate what is possibly in documents I haven't  
13 seen or the sum of all of their documents. I can't  
14 speculate what may or may not be there.

15 Q. Have you seen any such documents?

16 A. I guess you're asking me to speculate  
17 again.

18 Q. No, I'm not asking for speculation. I'm  
19 asking you: Have you seen personally any IEEE  
20 document that says to be compliant with this  
21 standard from the IEEE you must use CLI commands  
22 from Cisco? Have you seen such a document  
23 personally?

24 A. I don't think I've seen any such document  
25 from the IEEE.

1 Q. Okay. Have you personally seen any  
2 documents from the ACM that says to comply with an  
3 ACM standard you must use CLI commands from Cisco?

4 A. Can you define who the ACM is?

5 Q. Association of Computing Machinery. Are  
6 you familiar with that organization?

7 A. Vaguely. I'm not a member. I -- I can't  
8 speculate on things I haven't looked at.

9 Q. And let me go back to the IETF question,  
10 to be clear on the record.

11 Mr. Dale, have you personally seen any  
12 IETF standards document that says in order to comply  
13 with this standard you must use CLI commands from  
14 Cisco? Have you seen such a document?

15 A. To the best of my knowledge, I haven't  
16 seen an IETF document that has stated a mandatory  
17 requirement of a specific command. There might have  
18 been some recommendations, but I can't give you  
19 specifics beyond that.

20 Q. Now, sir, so when we've seen these  
21 statements in your presentations and documents that  
22 say: "industry standard," you're not talking about  
23 a particular industry standard document that's been  
24 ratified by any industry standard organization which  
25 requires Arista to use CLI commands from Cisco,

1 correct?

2 A. No, I have not, to the best of my  
3 knowledge. When we -- the context of industry  
4 standard is I think what all vendors essentially  
5 have implemented as commands for performing very  
6 similar functions.

7 Q. Just to be clear, you have not seen and  
8 you are not referring to any industry standard  
9 document that's been ratified by an industry  
10 standard organization when you have used the word  
11 "industry standard" in describing CLI, correct?

12 MR. SILBERT: Objection. Asked and  
13 answered.

14 THE WITNESS: Yeah, I -- I feel as if I've  
15 answered this question a few times now. I'm fairly  
16 sure I've even used the term "industry standard  
17 command-line interface" previously while I was at  
18 Cisco to refer to an industry standard command-line  
19 interface.

20 BY MR. PAK:

21 Q. I just need a clear answer. I think -- I  
22 think you've been clear, but just to be -- because  
23 I'm not really sure why we're talking about this  
24 beyond this question.

25 The question before you right now is: